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10 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 DAVID ZAMBRANO,

17 Defendant.

No. CR 22-312-MWF-18

PLEA AGREEMENT FOR DEFENDANT
DAVID ZAMBRANO

18
19 1. This constitutes the plea agreement between DAVID ZAMBRANO
20 ("defendant") and the United States Attorney's Office for the Central
21 District of California (the "USAO") in the above-captioned case.
22 This agreement is limited to the USAO and cannot bind any other
23 federal, state, local, or foreign prosecuting, enforcement,
24 administrative, or regulatory authorities.

25 DEFENDANT'S OBLIGATIONS

26 2. Defendant agrees to:

27 a. At the earliest opportunity requested by the USAO and
28 provided by the Court, appear and plead guilty to Count 5 of the

1 indictment in United States v. David Zambrano, CR No. 22-312-MWF-18,
2 which charges defendant with Conspiracy to Distribute and Possess
3 with Intent to Distribute Controlled Substances in violation of 21
4 U.S.C. §§ 846, 841(a), (b)(1)(B)(viii).

5 b. Not contest facts agreed to in this agreement.

6 c. Abide by all agreements regarding sentencing contained
7 in this agreement.

8 d. Appear for all court appearances, surrender as ordered
9 for service of sentence, obey all conditions of any bond, and obey
10 any other ongoing court order in this matter.

11 e. Not commit any crime; however, offenses that would be
12 excluded for sentencing purposes under United States Sentencing
13 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not
14 within the scope of this agreement.

15 f. Be truthful at all times with the United States
16 Probation and Pretrial Services Office and the Court.

17 g. Pay the applicable special assessment at or before the
18 time of sentencing unless defendant has demonstrated a lack of
19 ability to pay such assessments.

20 THE USAO'S OBLIGATIONS

21 3. The USAO agrees to:

22 a. Not contest facts agreed to in this agreement.

23 b. Abide by all agreements regarding sentencing contained
24 in this agreement.

25 c. At the time of sentencing, move to dismiss the
26 remaining counts of the indictment as against defendant. Defendant
27 agrees, however, that at the time of sentencing the Court may
28 consider any dismissed charges in determining the applicable

1 Sentencing Guidelines range, the propriety and extent of any
2 departure from that range, and the sentence to be imposed.

3 d. At the time of sentencing, provided that defendant
4 demonstrates an acceptance of responsibility for the offense up to
5 and including the time of sentencing, recommend a two-level reduction
6 in the applicable Sentencing Guidelines offense level, pursuant to
7 U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an
8 additional one-level reduction if available under that section.

9 e. Recommend that defendant be sentenced to a term of
10 imprisonment no higher than the low end of the applicable Sentencing
11 Guidelines range, provided that the offense level used by the Court
12 to determine that range is 25 or higher and provided that the Court
13 does not depart downward in offense level or criminal history
14 category. For purposes of this agreement, the low end of the
15 Sentencing Guidelines range is that defined by the Sentencing Table
16 in U.S.S.G. Chapter 5, Part A.

17 NATURE OF THE OFFENSE

18 4. Defendant understands that for defendant to be guilty of
19 the crime charged in Count 5, that is, Conspiracy to Possess with
20 Intent to Distribute and to Distribute Controlled Substances, in
21 violation of Title 21, United States Code, Sections 846,
22 841(b)(1)(B), the following must be true: (1) Beginning on or about a
23 certain date and ending on or about a certain date, there was an
24 agreement between two or more persons to possess with intent to
25 distribute/distribute drugs; and (2) Defendant joined in the
26 agreement knowing of its purpose and intending to help accomplish
27 that purpose.

1 5. Defendant understands that for defendant to be subject to
2 the statutory maximum and statutory minimum sentence set forth below,
3 the government must prove beyond a reasonable doubt that the
4 conspiracy of which defendant was a member involved the possession
5 with intent to distribute or distribution of at least 5 grams of
6 actual methamphetamine. Defendant admits that defendant, in fact,
7 conspired to possess with intent to distribute or distribute at least
8 5 grams of actual methamphetamine.

9 PENALTIES

10 6. Defendant understands that the statutory maximum sentence
11 that the Court can impose for a violation of Title 21, United States
12 Code, Sections 846, 841(b)(1)(B), is: 40 years' imprisonment; a
13 lifetime period of supervised release; a fine of \$5,000,000 or twice
14 the gross gain or gross loss resulting from the offense, whichever is
15 greatest; and a mandatory special assessment of \$100.

16 7. Defendant understands that the statutory mandatory minimum
17 sentence that the Court must impose for a violation of Title 21,
18 United States Code, Sections 846, 841(b)(1)(B) is: five years'
19 imprisonment; a four-year term of supervised release; and a mandatory
20 special assessment of \$100.

21 8. Defendant understands that supervised release is a period
22 of time following imprisonment during which defendant will be subject
23 to various restrictions and requirements. Defendant understands that
24 if defendant violates one or more of the conditions of any supervised
25 release imposed, defendant may be returned to prison for all or part
26 of the term of supervised release authorized by statute for the
27 offense that resulted in the term of supervised release, which could
28

1 result in defendant serving a total term of imprisonment greater than
2 the statutory maximum stated above.

3 9. Defendant understands that, by pleading guilty, defendant
4 may be giving up valuable government benefits and valuable civic
5 rights, such as the right to vote, the right to possess a firearm,
6 the right to hold office, and the right to serve on a jury. Defendant
7 understands that he is pleading guilty to a felony and that it is a
8 federal crime for a convicted felon to possess a firearm or
9 ammunition. Defendant understands that the conviction in this case
10 may also subject defendant to various other collateral consequences,
11 including but not limited to revocation of probation, parole, or
12 supervised release in another case and suspension or revocation of a
13 professional license. Defendant understands that unanticipated
14 collateral consequences will not serve as grounds to withdraw
15 defendant's guilty plea.

16 10. Defendant understands that under 21 U.S.C. § 862a,
17 defendant will not be eligible for assistance under state programs
18 funded under the Social Security Act or Federal Food Stamp Act or for
19 federal food stamp program benefits, and that any such benefits or
20 assistance received by defendant's family members will be reduced to
21 reflect defendant's ineligibility.

22 11. Defendant and his counsel have discussed the fact that, and
23 defendant understands that, if defendant is not a United States
24 citizen, the conviction in this case makes it practically inevitable
25 and a virtual certainty that defendant will be removed or deported
26 from the United States. Defendant may also be denied United States
27 citizenship and admission to the United States in the future.
28 Defendant understands that while there may be arguments that

1 defendant can raise in immigration proceedings to avoid or delay
2 removal, removal is presumptively mandatory and a virtual certainty
3 in this case. Defendant further understands that removal and
4 immigration consequences are the subject of a separate proceeding and
5 that no one, including his attorney or the Court, can predict to an
6 absolute certainty the effect of his conviction on his immigration
7 status. Defendant nevertheless affirms that he wants to plead guilty
8 regardless of any immigration consequences that his plea may entail,
9 even if the consequence is automatic removal from the United States.

10 FACTUAL BASIS

11 12. Defendant admits that defendant is, in fact, guilty of the
12 offense to which defendant is agreeing to plead guilty. Defendant
13 and the USAO agree to the statement of facts provided below and agree
14 that this statement of facts is sufficient to support a plea of
15 guilty to the charge described in this agreement and to establish the
16 Sentencing Guidelines factors set forth in paragraph 14 below but is
17 not meant to be a complete recitation of all facts relevant to the
18 underlying criminal conduct or all facts known to either party that
19 relate to that conduct.

20 Beginning on a date unknown, but no later than October 5, 2018,
21 and continuing to July 14, 2022, in Los Angeles County, within the
22 Central District of California, and elsewhere, defendant knowingly
23 conspired with multiple coconspirators to distribute, and possess
24 with intent to distribute, at least 5 grams of actual
25 methamphetamine. At the time defendant entered into the agreement,
26 defendant knew that one of the purposes of the agreement was to
27 possess with intent to distribute, or distribute at least 5 grams of
28 actual methamphetamine. To accomplish the purposes of the agreement,

1 defendant and his co-conspirators would obtain methamphetamine and
2 distribute it to their customers. Specifically, defendant and his
3 co-conspirators, in furtherance of the drug trafficking conspiracy,
4 used telephones and coded language to discuss their drug trafficking
5 activity such as during the following events:

6 On December 16, 2019, by telephone using coded language,
7 defendant and a co-conspirator discussed selling drugs.

8 On January 9, 2020, by telephone using coded language, defendant
9 and a co-conspirator discussed the sale of methamphetamine for \$110
10 per ounce and \$400 per quarter pound, and the sale of heroin for \$650
11 per ounce.

12 On August 26, 2020, defendant possessed with intent to
13 distribute approximately 36.8 grams of methamphetamine.

14 SENTENCING FACTORS

15 13. Defendant understands that in determining defendant's
16 sentence the Court is required to calculate the applicable Sentencing
17 Guidelines range and to consider that range, possible departures
18 under the Sentencing Guidelines, and the other sentencing factors set
19 forth in 18 U.S.C. § 3553(a). Defendant understands that the
20 Sentencing Guidelines are advisory only, that defendant cannot have
21 any expectation of receiving a sentence within the calculated
22 Sentencing Guidelines range, and that after considering the
23 Sentencing Guidelines and the other § 3553(a) factors, the Court will
24 be free to exercise its discretion to impose any sentence it finds
25 appropriate between the mandatory minimum and up to the maximum set
26 by statute for the crime of conviction.

27 14. Defendant and the USAO agree to the following applicable
28 Sentencing Guidelines factors:

1 Base Offense Level: 30 U.S.S.G. § 2D1.1(a)(5), (c)(5)

2 Minor Participant: -2 U.S.S.G. § 3B1.2(b)

3 Defendant and the USAO reserve the right to argue that additional
4 specific offense characteristics, adjustments, and departures under
5 the Sentencing Guidelines are appropriate. Defendant understands
6 that defendant's offense level could be increased if defendant is a
7 career offender under U.S.S.G. §§ 4B1.1 and 4B1.2. If defendant's
8 offense level is so altered, defendant and the USAO will not be bound
9 by the agreement to Sentencing Guideline factors set forth above.

10 15. Defendant understands that there is no agreement as to
11 defendant's criminal history or criminal history category.

12 16. Defendant and the USAO reserve the right to argue for a
13 sentence outside the sentencing range established by the Sentencing
14 Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1),
15 (a)(2), (a)(3), (a)(6), and (a)(7).

16 WAIVER OF CONSTITUTIONAL RIGHTS

17 17. Defendant understands that by pleading guilty, defendant
18 gives up the following rights:

19 a. The right to persist in a plea of not guilty.

20 b. The right to a speedy and public trial by jury.

21 c. The right to be represented by counsel -- and if
22 necessary have the Court appoint counsel -- at trial. defendant
23 understands, however, that, defendant retains the right to be
24 represented by counsel -- and if necessary have the Court appoint
25 counsel -- at every other stage of the proceeding.

26 d. The right to be presumed innocent and to have the
27 burden of proof placed on the government to prove defendant guilty
28 beyond a reasonable doubt.

1 e. The right to confront and cross-examine witnesses
2 against defendant.

3 f. The right to testify and to present evidence in
4 opposition to the charges, including the right to compel the
5 attendance of witnesses to testify.

6 g. The right not to be compelled to testify, and, if
7 defendant chose not to testify or present evidence, to have that
8 choice not be used against defendant.

9 h. Any and all rights to pursue any affirmative defenses,
10 Fourth Amendment or Fifth Amendment claims, and other pretrial
11 motions that have been filed or could be filed.

12 WAIVER OF APPEAL OF CONVICTION

13 18. Defendant understands that, with the exception of an appeal
14 based on a claim that defendant's guilty plea was involuntary, by
15 pleading guilty defendant is waiving and giving up any right to
16 appeal defendant's conviction on the offense to which defendant is
17 pleading guilty. Defendant understands that this waiver includes,
18 but is not limited to, arguments that the statutes to which defendant
19 is pleading guilty are unconstitutional, and any and all claims that
20 the statement of facts provided herein is insufficient to support
21 defendant's plea of guilty.

22 LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

23 19. Defendant agrees that, provided the Court imposes a total
24 term of imprisonment on all counts of conviction of no more than the
25 high end of the guidelines range applicable to offense level 25 and
26 the criminal history category calculated by the Court, defendant
27 gives up the right to appeal all of the following: (a) the procedures
28 and calculations used to determine and impose any portion of the

1 sentence; (b) the term of imprisonment imposed by the Court; (c) the
2 fine imposed by the Court, provided it is within the statutory
3 maximum; (d) to the extent permitted by law, the constitutionality or
4 legality of defendant's sentence, provided it is within the statutory
5 maximum; (e) the term of probation or supervised release imposed by
6 the Court, provided it is within the statutory maximum; and (f) any
7 of the following conditions of probation or supervised release
8 imposed by the Court: the conditions set forth in Second Amended
9 General Order 20-04 of this Court; the drug testing conditions
10 mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); the alcohol and drug
11 use conditions authorized by 18 U.S.C. § 3563(b)(7); and any
12 conditions of probation or supervised release agreed to by defendant
13 in paragraph 2 above.

14 20. Defendant also gives up any right to bring a post-
15 conviction collateral attack on the conviction or sentence, except a
16 post-conviction collateral attack based on a claim of ineffective
17 assistance of counsel, a claim of newly discovered evidence, or an
18 explicitly retroactive change in the applicable Sentencing
19 Guidelines, sentencing statutes, or statutes of conviction.
20 defendant understands that this waiver includes, but is not limited
21 to, arguments that the statutes to which defendant is pleading guilty
22 are unconstitutional, and any and all claims that the statement of
23 facts provided herein is insufficient to support defendant's plea of
24 guilty.

25 21. The USAO agrees that, provided (a) all portions of the
26 sentence are at or above the statutory minimum and at or below the
27 statutory maximum specified above and (b) the Court imposes a term of
28 imprisonment of no less than the low end of the guidelines range

1 applicable to offense level 25 and the criminal history category
2 calculated by the Court, the USAO gives up its right to appeal any
3 portion of the sentence.

4 RESULT OF WITHDRAWAL OF GUILTY PLEA

5 22. Defendant agrees that if, after entering a guilty plea
6 pursuant to this agreement, defendant seeks to withdraw and succeeds
7 in withdrawing defendant's guilty plea on any basis other than a
8 claim and finding that entry into this plea agreement was
9 involuntary, then the USAO will be relieved of all of its obligations
10 under this agreement.

11 RESULT OF VACATUR, REVERSAL OR SET-ASIDE

12 23. Defendant agrees that if the count of conviction is
13 vacated, reversed, or set aside, both the USAO and defendant will be
14 released from all their obligations under this agreement.

15 EFFECTIVE DATE OF AGREEMENT

16 24. This agreement is effective upon signature and execution of
17 all required certifications by defendant, defendant's counsel, and an
18 Assistant United States Attorney.

19 BREACH OF AGREEMENT

20 25. Defendant agrees that if defendant, at any time after the
21 signature of this agreement and execution of all required
22 certifications by defendant, defendant's counsel, and an Assistant
23 United States Attorney, knowingly violates or fails to perform any of
24 defendant's obligations under this agreement ("a breach"), the USAO
25 may declare this agreement breached. All of defendant's obligations
26 are material, a single breach of this agreement is sufficient for the
27 USAO to declare a breach, and defendant shall not be deemed to have
28 cured a breach without the express agreement of the USAO in writing.

1 If the USAO declares this agreement breached, and the Court finds
2 such a breach to have occurred, then: (a) if defendant has previously
3 entered a guilty plea pursuant to this agreement, defendant will not
4 be able to withdraw the guilty plea, and (b) the USAO will be
5 relieved of all its obligations under this agreement.

6 26. Following the Court's finding of a knowing breach of this
7 agreement by defendant, should the USAO choose to pursue any charge
8 that was either dismissed or not filed as a result of this agreement,
9 then:

10 a. Defendant agrees that any applicable statute of
11 limitations is tolled between the date of defendant's signing of this
12 agreement and the filing commencing any such action.

13 b. Defendant waives and gives up all defenses based on
14 the statute of limitations, any claim of pre-indictment delay, or any
15 speedy trial claim with respect to any such action, except to the
16 extent that such defenses existed as of the date of defendant's
17 signing this agreement.

18 c. Defendant agrees that: (i) any statements made by
19 defendant, under oath, at the guilty plea hearing (if such a hearing
20 occurred prior to the breach); (ii) the agreed to factual basis
21 statement in this agreement; and (iii) any evidence derived from such
22 statements, shall be admissible against defendant in any such action
23 against defendant, and defendant waives and gives up any claim under
24 the United States Constitution, any statute, Rule 410 of the Federal
25 Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal
26 Procedure, or any other federal rule, that the statements or any
27 evidence derived from the statements should be suppressed or are
28 inadmissible.

COURT AND UNITED STATES PROBATION AND PRETRIAL SERVICESOFFICE NOT PARTIES

27. Defendant understands that the Court and the United States Probation and Pretrial Services Office are not parties to this agreement and need not accept any of the USAO's sentencing recommendations or the parties' agreements to facts or sentencing factors.

28. Defendant understands that both defendant and the USAO are free to: (a) supplement the facts by supplying relevant information to the United States Probation and Pretrial Services Office and the Court, (b) correct any and all factual misstatements relating to the Court's Sentencing Guidelines calculations and determination of sentence, and (c) argue on appeal and collateral review that the Court's Sentencing Guidelines calculations and the sentence it chooses to impose are not error, although each party agrees to maintain its view that the calculations in paragraph 14 are consistent with the facts of this case. While this paragraph permits both the USAO and defendant to submit full and complete factual information to the United States Probation and Pretrial Services Office and the Court, even if that factual information may be viewed as inconsistent with the facts agreed to in this agreement, this paragraph does not affect defendant's and the USAO's obligations not to contest the facts agreed to in this agreement.

29. Defendant understands that even if the Court ignores any sentencing recommendation, finds facts or reaches conclusions different from those agreed to, and/or imposes any sentence up to the maximum established by statute, defendant cannot, for that reason, withdraw defendant's guilty plea, and defendant will remain bound to

1 fulfill all defendant's obligations under this agreement. defendant
2 understands that no one -- not the prosecutor, defendant's attorney,
3 or the Court -- can make a binding prediction or promise regarding
4 the sentence defendant will receive, except that it will be between
5 the statutory mandatory minimum and the statutory maximum.

6 NO ADDITIONAL AGREEMENTS

7 30. Defendant understands that, except as set forth herein,
8 there are no promises, understandings, or agreements between the USAO
9 and defendant or defendant's attorney, and that no additional
10 promise, understanding, or agreement may be entered into unless in a
11 writing signed by all parties or on the record in court.

12 ///

13 ///

14 ///

PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

31. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing as if the entire agreement had been read into the record of the proceeding.

AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE
FOR THE CENTRAL DISTRICT OF
CALIFORNIA

E. MARTIN ESTRADA
United States Attorney

Damaris Diaz
DAMARIS DIAZ
CLAIRE E. KELLY
Assistant United States Attorney

7/23/24

Date

David Zambrano
DAVID ZAMBRANO
Defendant

7/22/24
Date

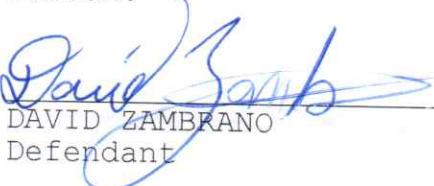
Oliver Cleary
OLIVER CLEARY
Attorney for defendant
DAVID ZAMBRANO

7/22/24
Date

CERTIFICATION OF DEFENDANT

I have read this agreement in its entirety. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorney, and my attorney has advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or

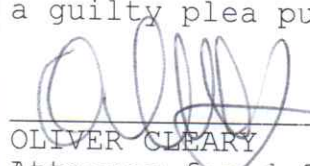
1 representations of any kind have been made to me other than those
 2 contained in this agreement. No one has threatened or forced me in
 3 any way to enter into this agreement. I am satisfied with the
 4 representation of my attorney in this matter, and I am pleading
 5 guilty because I am guilty of the charge and wish to take advantage
 6 of the promises set forth in this agreement, and not for any other
 7 reason.

8 
 9 DAVID ZAMBRANO
 Defendant

Date 7/22/24

11 CERTIFICATION OF DEFENDANT'S ATTORNEY

12 I am DAVID ZAMBRANO's attorney. I have carefully and thoroughly
 13 discussed every part of this agreement with my client. Further, I
 14 have fully advised my client of his rights, of possible pretrial
 15 motions that might be filed, of possible defenses that might be
 16 asserted either prior to or at trial, of the sentencing factors set
 17 forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines
 18 provisions, and of the consequences of entering into this agreement.
 19 To my knowledge: no promises, inducements, or representations of any
 20 kind have been made to my client other than those contained in this
 21 agreement; no one has threatened or forced my client in any way to
 22 enter into this agreement; my client's decision to enter into this
 23 agreement is an informed and voluntary one; and the factual basis set
 24 forth in this agreement is sufficient to support my client's entry of
 25 a guilty plea pursuant to this agreement.

26 
 27 OLIVER CLEARY
 Attorney for defendant
 28 DAVID ZAMBRANO

Date 7/22/24